2018 -- S 2539 AS AMENDED

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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO FOOD AND DRUGS -- UNIFORM CONTROLLED SUBSTANCES ACT -- NON-OPIATE DIRECTIVE

Introduced By: Senators Miller, Goodwin, Conley, and Paolino

Date Introduced: March 01, 2018

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

SECTION 1. Chapter 21-28 of the General Laws entitled "Uniform Controlled Substances Act" is hereby amended by adding thereto the following section:

21-28-3.33. Voluntary non-opiate directive form.

(a) The department shall establish a voluntary non-opiate directive form. The form shall indicate to all practitioners that an individual shall not be administered or offered a prescription or medication order for an opiate. The form shall be posted on the department's searchable website. An individual may execute and file a voluntary non-opiate directive form with a practitioner licensed under chapter 37 of title 5 or other authority authorized by the director to accept the voluntary non-opiate directive form for filing. An individual may revoke the voluntary non-opiate directive form for any reason and may do so by written or oral means.

(b) The department shall promulgate regulations for the implementation of the voluntary non-opiate directive form which shall include, but not be limited to:

(1) The procedures to record the voluntary non-opiate directive form in the individual's electronic health record and in the prescription drug monitoring program established pursuant to § 21-28-3.18;

(2) A standard form for the recording and transmission of the voluntary non-opiate directive form, which shall include verification by a practitioner registered under chapter 37 of title 5 and which shall comply with the written consent requirements of the Public Health Service

Act, 42 U.S.C. § 290dd-2(b), and 42 CFR Part 2; provided, however, that the voluntary non-opiate directive form shall also provide the basic procedures necessary to revoke the voluntary non-opiate directive form;

(3) The requirements for an individual to appoint a duly authorized guardian or health care proxy to override a previously recorded voluntary non-opiate directive form;

(4) The procedures to ensure that any recording, sharing or distribution of data relative to the voluntary non-opiate directive form complies with all state and federal confidentiality laws; and

(5) Appropriate exemptions for pre-hospital emergency medical services providers and other medical personnel.

(c) A written prescription that is presented at an outpatient pharmacy or a prescription that is electronically transmitted to an outpatient pharmacy shall be presumed to be valid for the purposes of this section and a pharmacist in an outpatient setting shall not be held in violation of this section for dispensing a controlled substance in contradiction to a voluntary non-opiate directive form, except upon evidence that the pharmacist acted knowingly against the voluntary non-opiate directive form.

(d) No health care provider or employee of a health care provider acting in good faith shall be subject to criminal or civil liability or be considered to have engaged in unprofessional conduct for failing to offer or administer a prescription or medication order for an opiate under the voluntary non-opiate directive form.

(e) No person acting as an agent pursuant to a health care proxy shall be subject to criminal or civil liability for making a decision under subsection (b)(3) of this section in good faith.

(f) The board of medical licensure and discipline may limit, condition or suspend the license of or assess fines against a licensed health care provider who recklessly or negligently fails to comply with a person's voluntary non-opiate directive form.

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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This act would establish a procedure for individuals to file a revocable voluntary non-opiate directive form with the person's licensed health care practitioner.

This act would take effect upon passage.

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